

**Camden Select Board
Minutes of Meeting
May 17, 2011**

PRESENT: Chairperson Karen Grove, Vice Chair Deborah Dodge, John French, Jr., Morgan Laidlaw, Martin Cates, Town Attorney William Kelly and Town Manager Roberta Smith. Also present were members of the press and public.

Contents

AS SELECT BOARD

1. Public input on non-agenda items

- a. Nancy Caudle-Johnson announced this is Camden's 17th year as a Tree City. On Sunday, May 22nd there will be an Arbor Day Celebration at the Megunticook Riverwalk at 1 pm.
- b. George Barnard questioned the Board about their public discussion last week regarding posting on someone else's facebook account. He questioned how the Board found the postings and he felt the actions of the Board a few weeks ago were considered bullying. He questioned if he put something on his facebook would they react the same way and he also questioned how the Board could view someone's private comments.

In the Board's defense Board member Laidlaw reported they viewed Mr. Churchill's and Mr. Leonard's facebook walls the same as any other individual because they were not set private. He asked Mr. Barnard if he felt the Board did not have the right to defend themselves.

Mr. Barnard thought the Board was publicly flogging people and that is not right. They elected them to present them as a whole.

Chairperson Grove stated no one took offense to what was being said regarding Camden Studios until someone posted on one of the pictures posted "A result of the Select Board having sex with the owners of Camden Studios." This stepped beyond the bounds of decency and she will never say that it is okay to accuse her or anyone else of having sex with a stranger. She will never say that is okay and she has the right to defend her own name.

The Board also confirmed that the postings have now been removed from facebook.

2. Consideration of proposed request to the Office of Community Development for an exception approval regarding the Lupine Terrace CDBG Housing Assistance grant.

Frank Toole of Camden Housing Organization was present and announced that recently they closed on a lot in the Lupine Terrace subdivision and utilized the down payment assistance for low-income first-time homebuyers provided through the Town's CDBG Housing Assistance grant. CDBG has encouraged CaHO to seek an exception approval for up to \$50,000 per unit.

John French made a motion to support the request to CDBG Program for an exception approval for up to \$50,000 per unit in housing assistance at lupine Terrace. Morgan Laidlaw seconded this motion. The motion passed on a 5-0-0 vote.

- 3. Approval of a Letter of Intent for the Maine Department of Economic and Community Development's (DECD) Communities for Maine's Future grant program.** Development Director Brian Hodges presented a program for proposed downtown improvements for the Bay View Street Cinema. He reported that Communities for Maine's Future (CMF) is part of a \$25,000,000 bond initiative approved by Maine voters on June 8, 2010. \$3.5 million of these funds will be allocated to the CMF program for the purpose of downtown revitalization in Maine communities. The program will be structured very similar to the previous Municipal Investment Trust Fund and will be administered through the Department of Economic and Community Development. Municipalities will be the applicants for projects supporting a public purpose, with emphasis places on collaboration with private sector and non-profit partners. The scoring criteria will require an independent review panel to evaluate the value of the project in terms of economic development, downtown revitalization, historic preservation, tourism development, sustainable development, the degree of collaboration, and more. Grants will be made of up to \$400,000 and require a 1:1 match.

He stated the process for communities is two-fold. A letter of intent must be submitted on or before Friday June 3rd. It will be reviewed by the Maine DECD and a determination made on whether the community will be approved to submit an application due July 1st. He has been working with Stuart Smith regarding restoration and improvements to the Bay View Cinema building for purposes of bringing a movie theater to the downtown. The letter of intent is more of a placeholder to describe possibilities of a project. The final application due in July will contain specifics in terms of project activity, cost, etc.

Morgan Laidlaw made a motion to approve the Letter of Intent submission for the DECD Communities for Maine's Future grant program. Martin Cates seconded this motion. The motion passed on a 5-0-0 vote.

Moved ahead to #5.

5. Bid Awards:

- a. **Chamber of Commerce Building Deck Replacement:** Jeff Kuller, Parks & Recreation Director feels he needs to do a bit more research about the best decking material to use. Pressure treated wood is cheapest but it will not last as long, will require annual sealing, and tends to get quite slippery when wet. He has begun the research and is learning that different composite decking has different pros and cons.

Deborah Dodge made a motion to award the bid to the low bidder, Lorraine Construction not to exceed \$12,000. Morgan Laidlaw seconded this motion. The motion passed on a 5-0-0 vote.

- b. **Public Safety Building Boiler Replacement:** Manager Smith reported we did not receive any bids. Only one company showed for the mandatory pre-bid meeting. Chief Farley is going to try contacting again to see if we can get some proposals.

Morgan Laidlaw made a motion to table this bid. Martin Cates seconded this motion. The motion passed on a 5-0-0 vote.

6. **Overview presentation of FY12 school budgets.** Five Towns CSD/MSAD Superintendent Dorr made a summary presentation of the FY11-12 School budgets.

Chairman Grove read the rules and regulations for conducting public hearings in preparation of the public hearing to be held this evening.

7. Public Hearings regarding the following:

- a. **Amendment to the Personnel Policy to add a new classification Career Assistant Fire Chief to the Step and Grade Plan.** Chief Farley came before the Board to request that the town establish a career Assistant Fire Chief classification. This is not a new position it is for career growth for the two full time firefighters we already have. In addition to career growth this will provide some physical and educational requirements for the positions so we have qualified people in these positions. Historically, the Assistant Fire Chief has been chosen by a vote of the Atlantic Engine Company which has been essentially a popularity contest not necessarily the most qualified part time firefighter. This will put some qualifications on the position.

Chairperson Grove asked to hear from any opponents. There were none.

Chairperson Grove asked to hear from any proponents. There were none.

Chairperson Grove closed the public portion of the hearing, and Board discussion ensued.

Questions raised by the Board:

- How much of a yearly increase would this be for the current firefighters?
\$10,000
- Why does job description state position will have general responsibility of firefighters on a day to day basis? This is something they would expect is the Fire Chief's job. This is a typo should say assist the Fire Chief with general responsibility of firefighters.
- How do we justify a \$10,000 increase? Do not see what additional duties this position will be performing that isn't in the current job description.
- Appears Labor Grade 13 is quite a bit higher than the average found from the salary survey conducted. Falmouth Fire Chief is around \$57,000 but the others are in the mid \$30,000 range. Manager Smith stated the Ellsworth position that was used for comparison for Camden is an hourly position of \$16.01. That position may have made \$65,000 but a substantial amount of earnings last year (almost double) was in overtime.

Manager Smith reported the Personnel Board has recommended this new position be established and that it be designated a pay grade 13 exempt position. She agrees with the recommendation of the position but does not feel it should be a salaried exempt position. She recommends that the position remain hourly, with the payment of overtime, at a pay grade more in line with other comparable departments.

She further commented that the current Firefighter positions are a Labor Grade 7 and for example the following town positions are at the same grade: Parking Ticket Officer, Assessing/Code Administrative Assistant, Public Works Truck Driver II, Snow Bowl / Parks & Recreation Administrative Assistant, Tax Collector, Town Clerk, and Wastewater Filter Press Operator.

If you were to approve placing this new classification as a Pay grade 13 you would be putting them at a higher pay grade than: Public Works Mechanic, Public Works Assistant Mechanic, Assistant Opera House Manager, Public Safety Administrative Assistant, Wastewater Plant Operator, Wastewater Assistant Mechanic, Accountant, Public Works Foreman, Town Manager's Administrative Assistant, Wastewater Mechanic, Wastewater Senior Treatment Plant Operator, and the Harbormaster. A labor grade 13 is more comparable to the Opera House Manager position.

Board member French said he supported the position itself, but felt the pay grade should be closer to pay grade 9.

John French made a motion to send this back to the Personnel board for a different labor grade and not as an exempt position on the town Pay Plan. Deborah Dodge seconded this motion. The motion passed on a 4-1-0 vote. (Grove opposed)

b. Adoption of a Closing Policy Appendix to the Town Personnel Regulations.

Manager Smith reported on occasion we have had to close the town office due to snow storms. This year was a little unusual because of the amount of snow we closed more than normal. We rarely close the office because of snow but on occasion have closed early. On February 1st the Select Board adopted an interim storm closing policy pending a recommendation from the Personnel Board. Subsequently the Personnel Board has recommended a Closing Policy for the Board's consideration which states that non-essential employees if notified by Town Manager or Department Head not to report to work will be paid for the day and not have to use their vacation or comp time. This policy does not include any compensatory day for essential employees for a snow storm because they are "Essential" employees and it is their job to report to work they work in public safety.

Chairperson Grove asked to hear from any opponents. There were none.

Chairperson Grove asked to hear from any proponents. There were none.

Chairperson Grove closed the public portion of the hearing, Board discussion ensued.

Board member French stated he does not agree with this because it is not fair to the essential employees. He suggests sending this back to Personnel Board for reconsideration.

John French made a motion to not approve the Closing Policy Appendix suggested by the Personnel Board and to send it back to them for reconsideration. Martin Cates seconded this motion. The motion passed on a 5-0-0 vote.

c. **Application of Breda LLC, d/b/a Camden Harbour Inn and Natalie's at 83 Bay View Street for a Class I Hotel Malt, Spirituous, and Vinous Liquor License.**

The liquor license application has been reviewed by the Police Chief and has no incidents on record over the past year.

Chairperson Grove asked to hear from any opponents. There were none.

Chairperson Grove asked to hear from any proponents. There were none.

Chairperson Grove closed the public portion of the hearing, no Board discussion ensued.

John French made a motion to approve the application for a liquor license for Camden Harbour Inn & Natalie's at 83 Bay View Street. Morgan Laidlaw seconded this motion. The motion passed on a 5-0-0 vote.

d. **Application of BDB, LLC d/b/a Chichi Chef at 34 Hosmer Pond Road for a Class I Malt, Spirituous, and Vinous Liquor License.** The liquor license application has been reviewed by the Police Chief and shows no incidents on record over the past year.

Chairperson Grove asked to hear from any opponents. There were none.

Chairperson Grove asked to hear from any proponents. There were none.

Chairperson Grove closed the public portion of the hearing, no Board discussion ensued.

John French made a motion to approve a liquor license for Chichi Chef at 34 Hosmer Pond Road. Martin Cates seconded this motion. The motion passed on a 4-0-1 vote. (Laidlaw abstained)

e. **Breda LLC, d/b/a Camden Harbour Inn 83 Bay View Street for a Class I Hotel Mini Bar.** The liquor license application has been reviewed by the Police Chief and has no incidents on record over the past year.

Chairperson Grove asked to hear from any opponents. There were none.

Chairperson Grove asked to hear from any proponents. There were none.

Chairperson Grove closed the public portion of the hearing, no Board discussion ensued.

John French made a motion to approve the application for a Hotel Mini Bar for Camden Harbour Inn at 83 Bay View Street. Martin Cates seconded this motion. The motion passed on a 5-0-0 vote.

- f. Application of Breda LLC at 83 Bay View Street for a Special Amusement Permit.** The liquor license application has been reviewed by the Police Chief and has no incidents on record over the past year. The life safety inspections have been completed by the Fire Department.

Chairperson Grove asked to hear from any opponents. There were none.

Chairperson Grove asked to hear from any proponents. There were none.

Chairperson Grove closed the public portion of the hearing, no Board discussion ensued.

John French made a motion to approve the application for a special amusement permit for Camden Harbour Inn at 83 Bay View Street. Martin Cates seconded this motion. The motion passed on a 5-0-0 vote.

Went back to #4.

- 4. Consideration of renewal of Chamber of Commerce lease agreement for the town-owned building at the Public Landing.** CRL Chamber Executive Director Dan Bookham came before the Board to formally request renewal of the lease agreement with the town. The existing license is a 20 year period which expired in 2006. Town Attorney informed the Board that a long term lease would require a Town Meeting vote and suggested a temporary license agreement for the interim period between now and November.

John French made a motion for the Town Attorney to draft a license agreement for the lease of Public Landing to the Chamber through November 2011 for approval at the next Board meeting, and to draw up a long term lease for the building for voter approval at the November 2011 Special Town Meeting. Deborah Dodge seconded this motion. The motion passed on a 5-0-0 vote.

- 8. Consideration of Leonard Lookner's request to put a citizen referendum before the voters to take the Tannery property off the market and restrict the property's use for community and municipal functions.** Leonard Lookner asked the Select Board to give voters a chance to register their support, or lack of support, for any sale of the former tannery property. This property might serve as a permanent home for the Camden Farmer's Market, a flea market, tour bus parking or some other use, and that keeping the land would preserve it for possible future use for a town building.

He said is reason or asking is to find out what the sentiment of the town is. He wants the decision to be made by balloting, rather than during a public meeting, such as the annual town meeting in June, because people do not speak up.

Board member Grove was concerned that presenting a third alternative to Articles 6A and 6B, at the June town meeting. This could set up a conflict between approved measures that would negate all of them.

Mr. Lookner said he would think differently about this if he thought voters would show overwhelming support for Article 6A at the Annual Town Meeting. Board members suggested a fall referendum question include a provision that would deal with the instance of a buyer stepping forward in the interim.

After that discussion, Lookner asked board members for their patience so he could apologize for remarks he made in what he perceived as a private conversation with friends on Facebook. He said he perceived no prejudice, anti-Semitism or racism in the conversations he participated in on the social networking website.

9. Discussion of Bob Gassett's request to reconsider the Board's decision to add language to the June town meeting warrant regarding the Tannery Property .

Bob Gassett was not present for discussion. Nancy Caudle-Johnson asked to make a few comments. She questioned why the Board made changes to the Town Meeting Warrant at the May 3, 2011 meeting. It was unclear to her this was going to happen. She was at the meeting until about 10:00 pm and when she went home to finish watching the Board meeting the discussion came up about adding Articles 6A & 6B. At the May 3rd meeting we were talking about inappropriate language by others and she feels what the Board did last week was like playing dirty pool.

She said the fact that people believe that she was the reason that there was public opposition to B.D' Turman'd deal is wrong. She did not deprive people a chance to vote. The fact is they could not fit their buildings on the land and that is the real reason why the pulled the project.

She further stated that Article 6A is the same warrant time that has appeared on previous warrants. This warrant article will rescind November 4, 2008 approval of a measure requiring that any sale of the former Apollo tannery property go before voters at a secret ballot referendum preceded by a public hearing. Article 6B does not give any note to what it means. If Article 6B passes this means that no public hearing or referendum would be needed. The Town Attorney very carefully described Article 6A but not 6B she asked why?

The attorney she hired (John Bannon) disagrees he told her that Article 6B does not include specific language guaranteeing that Article 12 of the November 4, 2008 special town meeting will remain in effect. His opinion is that if Article 6B is enacted it will abolish the requirement of a public hearing and referendum pursuant to Article 12. Article 6B provides no standards limiting how the Select Board may sell the Apollo Tannery property and does not expressly reference any earlier vote as remaining in effect. It will negate and override both Articles 10 and 12, and grant the Select Board discretion to sell the property however it sees fit.

She insisted that that Article 6B should be amended by adding a note: Approval of this article shall serve to keep in place Article 12 of the November 4, 2008 special town meeting

requiring that any sale of the Apollo Tannery property be approved by Camden voters at a referendum vote.

Town Attorney Kelly stated if Article 6B should pass the requirement that the Apollo Tannery property go to referendum vote per the existing article will continue. Article 6A explicitly overturns the prior referendum vote so the note was put there to make the consequences clear. Article 6B does not do that so there was no need for explanation because there is no consequence. Article 6B will not overturn the referendum voted in by the voters in November 2008.

Manager Smith requested to make some clarifying comments for the record. The developer (Camden Studios) knew that 2-18,000 square foot buildings would not fit on the Apollo Tannery site and the Select Board knew as well that is why a Purchase & Sale Agreement was drawn up. One of the contingencies of the P&S was they wanted to be able to acquire other properties as necessary. They had already identified those two corner lots as necessary so Mrs. Caudle-Johnson did not need to hire her own architect.

Secondly the Select Board agendas are faxed and emailed to a large number of people, including Mrs. Caudle-Johnson and it is posted on the town's website and posted in other prominent places in town. The original warrant made reference to the sale of the Apollo Tanner property to B.D' Turman'd (Camden Studios) and seems the deal did not go through the warrant needed to be amended and it was clearly posted and there were no shady politics involved as implied by Mrs. Caudle-Johnson.

The board at this point closed the discussion and moved on to the next item.

10. The Board considered of the following renewal applications for Newspaper Vending Racks:

- a. Thomas & Angela Rothwell d/b/a Camden Deli at 37 Main Street
- b. Philip McElhaney d/b/a Boyton-McKay Food Co. at 30 Main Street
- c. Francis Coleman, d/b/a Bangor Daily News at 28 Chestnut Street
- d. Donna Culbertson, d/b/a Village Net Media at 28 Chestnut Street

Deborah Dodge made a motion to approve the Newspaper Vending Rack renewals as listed. Morgan Laidlaw seconded this motion. The motion passed on a 5-0-0 vote.

11. The Board considered the following renewal Victualer's Licenses: Atlantica Gallery & Grille, Bay View Lobster, Birchwood Motel, Boynton McKay, Camden Cone, Camden Deli, Camden Harbour Inn, Cappy's Chowder House, Captain Swift Inn, Harbor Dogs, Hartstone Inn, High Tide Inn, Linda Bean's Perfect Maine, Lord Camden Inn, Riverhouse Soft Serve, Scott's Place, Smoothie Shack, Smokestack Grill, Subway, Swan House, Towne Motel, Village Restaurant, Waterfront Restaurant, and Whitehall Inn.

Manager Smith reported the life safety inspections have been completed and the Codes Officer has signed off on the applications.

Deborah Dodge made a motion to approve the Victualer's License renewals as listed. Morgan Laidlaw seconded this motion. The motion passed on a 5-0-0 vote.

12. The Board considered the following Lodging Establishment License renewals: Beloin's Motel, Birchwood Motel, Camden Harbour Inn, Captain Swift Inn, Cedar Crest Motel, Grand Harbor Inn, Hartstone Inn, Lord Camden Inn, Maine Stay Inn, Swan

House, Towne Motel, and Whitehall Inn. Manager Smith reported the life safety inspections have been completed and the Codes Officer has signed off on the applications.

Deborah Dodge made a motion to approve the Lodging License renewals as listed. Morgan Laidlaw seconded this motion. The motion passed on a 5-0-0 vote.

- 13. Approval of a supplemental Commercial Fisherman's Float Application for the 2011 season for Bradford Scott.** The Harbor Committee has recommended that Mr. Scott's late application for a Commercial Fisherman's float for the 2011 season be approved.

John French made a motion to approve a Commercial Fisherman's float for Bradford Scott for 2011. Morgan Laidlaw seconded this motion. The motion passed on a 5-0-0 vote.

- 14. Acceptance of donation to complete pillars at Oak Hill Cemetery.** Manager Smith reported the Cemetery Association has been working on installing pillars at the new and old sections of Oak Hill Cemetery. Mr. Dickey generously donated \$10,000 to help complete the remaining four pillars.

Deborah Dodge made a motion to accept the donation of \$10,000 with deep gratitude from Kenneth Dickey for the remaining pillars at Oak Hill Cemetery. Morgan Laidlaw seconded this motion. The motion passed on a 5-0-0 vote.

- 15. Discussion regarding brokerage commissions on the Town's Endowment Fund.** Manager Smith reported years ago the Town chose a local brokerage firm, UBS, for the custody of the town's endowment fund that is managed by RM Davis. Periodically we are asked to review the commissions paid on these accounts. The Board asked the Town Manager to invite Mr. Allen from RM Davis to the next Board meeting to discuss the endowment fund and its commissions further.

- 16. Committee Reports.** There were no committee reports.

17. Manager's Report:

- a. Route one is not progressing very well because of the rain.
- b. She, Rick Seibel, and Jeff Kuller have met with Will Gartley regarding the intermittent repairs to Laite Beach. They hope to start the project after Labor Day and estimate about 4-6 weeks for completion. The project will be bid out in two phases so will receive separate bids for the work.

Moved ahead to #19

John French made a motion to adjourn as Select Board and reconvene as Wastewater Commissioners. Deborah Dodge seconded this motion. The motion passed on a 5-0-0 vote.

As Wastewater Commissioners:

- 19. Approval of the Certificate of Commitment for wastewater charges for the period of January 9, 2011 to April 9, 2011.** This commitment represents the 3rd quarter in the FY11 fiscal year.

Martin Cates made a motion to approve the Certificate of Commitment for Wastewater charges totaling \$166,908.23. Morgan Laidlaw seconded this motion. The motion passed on a 5-0-0 vote

20.Approval to add interest charges to unpaid wastewater charges. Manager Smith reported that historically, for reasons unknown to her, the town has not charged interest on late wastewater charges. For consistency with real estate taxes, she recommends that the Board establish an interest charge for wastewater bills not paid within 30 days of billing equal to the interest rate charged on property taxes. This interest rate is set each year at Town meeting and is usually set at the highest lawful rate set annually by the Treasurer of State for municipal taxes.

Deborah Dodge made a motion to use the same interest rate that is set at Town Meeting for unpaid real estate taxes. Martin Cates seconded this motion. The motion passed on a 5-0-0 vote.

John French made a motion to adjourn as Wastewater Commissioners and reconvene as Select Board. Morgan Laidlaw seconded this motion. The motion passed on a 5-0-0 vote.

Went back to #18

18.Executive Session: Personnel matter, 1 MRSA Section 405(6)A. *Deborah Dodge made a motion to enter into executive session at 10:15 pm. Martin Cates seconded this motion. The motion passed o a 5-0-0 vote.*

The Board came out of executive session at 10:55 pm.

John French made a motion to approve an extension to the Town Manager's contract to October 21, 2011. Martin Cates seconded this motion. The motion passed on a 5-0-0 vote.

John French made a motion to adjourn the meeting at 10:56 pm. Martin Cates seconded this motion. The motion passed on a 5-0-0 vote.

Respectfully submitted,

Janice L. Esancy
Recording Secretary (by DVD)